THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 7877 OF 2005

Dated 23rd February, 2007

Between:

A.A. Upper Primary School,
represented by its Correspondent, M.Simon
R/o Abhipuram, Chinnapuram,
Mahanandi Mandal, Kurnool District.

… Petitioner

And

Government of Andhra Pradesh,
Education (SE) Department,
represented by its Principal Secretary to
the Government, Secretariat, Hyderabad
and others.

…Respondents.

ORAL ORDER:

In this writ petition, the petitioner-school has questioned the proceedings dated 2.12.2004 issued by the District Educational Officer, Kurnool.

The petitioner is an aided school recognized by the Government of Andhra Pradesh and certain posts in the said school were admitted to grant-in-aid. It is stated that one of the teachers by name E.S.S.Mariamma, who was appointed to the aided vacancy, retired from service on 31.5.2004. Therefore, the petitioner-school submitted proposals to the District Educational Officer on 25.5.2004 seeking permission to fill up the said vacancy. On such proposals, the District Educational Officer has passed the impugned order calling for certain information with regard to Roll and attendance particulars for the year 2004-05, roster points etc. But, however, in the same proceedings, it is communicated that the Government has imposed ban in filling up the vacant posts vide Memo No.12080/C&DSE/A1/04-4, dated 20.10.2004.

In the counter affidavit, it is stated that all the required particulars were not furnished by the petitioner-school and further, it is also stated that after rationalization orders were issued by the Government in G.O.Ms.No.103 Education dated 5.8.2005 8 posts of aided Secondary Grade Teachers have been found surplus. But, however, the effect of ban on the proposals sent prior to its imposition by the Government and the rationalization of staff pursuant to the orders of the Government in G.O.Ms.No.103 dated 5.8.2005 came to be considered by a Division Bench of this Court in Writ Appeal No.1578 of 2005 and batch, and the Division Bench of

this Court by judgment dated 29.12.2006 held that the if the proposals were sent prior to the issuance of orders of ban in Memo dated 20.10.2004, the ban would not have effect on such proposals being considered for filling up the posts. The Division Bench also recorded a finding that the rationalization procedure adopted is not in accordance with law.

In that view of the matter, following the judgment of the Division Bench in Writ Appeal No. 1578 of 2005 and batch dated 29.12.2006, I set aside the impugned orders dated 2.12.2004 issued in proceedings Rc.No. 5107/04/2004 and direct the respondents to consider the proposals sent by the petitioner-school to fill up the existing vacancy without reference to the ban imposed by the Government in Memo No.12080/COSF/A2/2004-4, dated 20.10.2004. However, such consideration shall be by calling required information and in accordance with the applicable rules and regulations.

Subject to above direction, the writ petition is disposed of. No costs.

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23.1.2007

R.SUBHASH REDDY, J.

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